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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,917	02/12/2007	Jens Heinemann	7790P001	3829

7590 10/04/2010
Blakely, Sokoloff, Taylor & Zafman
12400 Wilshire Boulevard
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EXAMINER

YIP, KENT

ART UNIT	PAPER NUMBER
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2625

MAIL DATE	DELIVERY MODE
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10/04/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/570,917	HEINEMANN ET AL.	
	Examiner	Art Unit	
	Kent Yip	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed July 5, 2007 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

2. Claim 1 is objected to because of the following informalities: Typo in step (f) "steps c) to 3)". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, the phrase "for example" or "e.g." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-14, 16-23, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Morgan US 2004/0120008.

Regarding Claim 1, Morgan teaches method for creating individual pictures, cards and similar items (abstract) comprising at least the following steps

(a) the application is explained to the user on a preview window on a screen (p0060, p0066-0067 Fig. 1-2 [14, 16], Fig. 4 [2]),

(b) whereby a language (p0092) and communication selection can be activated (p0094), and

(c) whereby the user then selects the picture or card motif from standard motifs kept in the system and/or from motifs supplied by the user himself and embeds in a layout (p0072),

(d) whereby a portrait recording of the user is created and embedded in the layout (p0063-0065 Fig. 4 [5]), and,

(e) as desired, an individual or standard greeting and message text is created by the user and integrated into the layout (p0100 Fig. 4 [7-8]),

(f) the ready-to-output product on the screen, which can be printed and/or sent and/or stored, is controlled by the user and, as desired, is accepted or else is edited and corrected by repeating at least steps c) to 3) of the method (Fig. 4 [6-8]),

(g) at which point subsequently the payment and billing function is then started (Fig. 4 [3]),

(h) and finally the finished product is outputted (Fig. 4 [10-11]).

Regarding Claim 2, Morgan teaches method for creating a portrait recording, especially for creating individual pictures, cards and similar items according to claim 1, whereby by means of a digital video camera a sequence of pictures of the user is recorded and, in this manner, a video stream is generated and the best picture is selected either manually or automatically (p0062, p0101).

Regarding Claim 3, Morgan teaches method for creating a portrait recording according to claim 2, whereby the format used is a DP stream in progressive recording mode (p0062).

Regarding Claim 4, Morgan teaches method for creating a portrait recording according to claim 2, whereby for manual selection the individual pictures are offered to the user and the best picture is selected by the user (p0101).

Regarding Claim 5, Morgan teaches method for creating a portrait recording according to claim 4, whereby the user is offered an interaction element for selecting an individual picture (p0101).

Regarding Claim 6, Morgan teaches method for creating a portrait recording according to claim 2, whereby during the automatic selection photos blurred by

Art Unit: 2625

movement are discarded and the user is only offered the sharpest pictures for selection (p0062, p0101).

Regarding Claim 7, Morgan teaches method for creating a portrait recording according claim 2, whereby the user of whom a video stream is generated, is illuminated with constant light by means of white LEDs (p0067, p0100).

Regarding Claim 8, Morgan teaches method for creating a portrait recording according to claim 2, whereby the user is offered at least 4 pictures of the generated video stream to select from (p0101).

Regarding Claim 9, Morgan teaches method for the creation of a portrait recording according to claim 2, whereby the picture or pictures are displayed to the user as a mirror image of the user on a suitable monitor as a preview (p0101-0104).

Regarding Claim 10, Morgan teaches method according to claim 1, whereby the completely created picture, card or similar item is outputted as hardcopy print-out or as postcard via an integrated printer (p0072-0082) or as an e-mail or by saving to a storage medium which the user has brought with him (e.g. a screen saver on the cellular phone, PDAs or similar devices) or by saving to an online database offered by the system (p0101).

Regarding Claim 11, Morgan teaches method according to claim 1, whereby the storage media for creating individual layouts with stored motifs or for storing the finished composed pictures, cards and similar items are selected from external stationary or mobile storage media or online databases (p0101, p0109, p0111).

Art Unit: 2625

Regarding Claim 12, Morgan teaches method according to claim 10, whereby corresponding interfaces are envisaged for transfer by means of internet or wireless connection or external peripheral devices (p0108-0109, p0111).

Regarding Claim 13, Morgan teaches interactive machine for the individual design of pictures, cards, especially postcards and similar items (p0060 Fig. 1-3), comprising at least

- one monitor (p0066 [14]),

- one camera with an adjustment apparatus (p0062-0065 [12]),

- one lighting unit (p0067, p0096 [34]),

- means for operating the machine (p0067 [16]),

- at least one interface for communication with external storage media and internet connection (p0108-0109, p0111),

- one integrated DP system which in turn comprises at least one internal storage unit (p0062, p0101),

- one output apparatus for creating the pictures and/or cards (p0082 [18]),

- one payment unit (p0098 [38, 40]),

- one power supply (p0114 [10]),

- means for mobility of the machine for location-independent placement (p0110 [10]).

- anti-theft protection (p0099),

- one remote-maintenance unit (p0108).

Regarding Claim 14, Morgan teaches machine according to claim 13, whereby the camera involves a digital video camera for generating a video stream (p0062).

Regarding Claim 16, Morgan teaches machine according to claim 13, whereby the monitor is a touch- screen monitor (p0066-0067).

Regarding Claim 17, Morgan teaches machine according to claim 13, whereby the means for operating the machine are a keyboard and/or a joystick (p0067).

Regarding Claim 18, Morgan teaches machine according to claim 13, whereby the output unit is a thermosublimation printer (p0072 [18]).

Regarding Claim 19, Morgan teaches machine according claim 13, whereby the interface is suitable for various digital storage media (p0097, p0109, p0111).

Regarding Claim 20, Morgan teaches machine according to claim which also features, in addition to the conventional power supply, solar modules for generating solar energy and/or recharging batteries (p0114).

Regarding Claim 21, Morgan teaches machine according claim 13, whereby the means for movement are wheels or casters or appliances for carrying (p0110).

Regarding Claim 22, Morgan teaches machine according to claim whereby the theft prevention means permit physical attachment of the apparatus at the individual location (p0099) and/or emission of signals which are perceptible acoustically, visually and/or via radio.

Regarding Claim 23, Morgan teaches machine according to claim 13, whereby for remote maintenance wireless communication means are integrated, or data cables are available (p0108).

Art Unit: 2625

Regarding Claim 26, Morgan teaches machine according to claim 13, whereby the outer sides of the machine serve as advertising spaces and are designed as a background-illuminated display and/or as an electronic advertising panel (p0105).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan US 2004/0120008 as applied to claim 13 above, and further in view of Haigh et al. US 2004/0140459 (hereinafter Haigh).

Regarding Claim 15, Morgan teaches machine according to claim 13, whereby the lighting unit features several LED diodes for generating constant light (p0067).

Morgan does not explicitly teach a photometer.

Haigh teaches a photometer (p0065).

At the time of the invention it would have been obvious to modify Morgan's photo kiosk to include Haigh's light sensor since Haigh also teaches a photo kiosk (p0033) where a light sensor provides real time adjustment to a light source improving lighting condition.

Art Unit: 2625

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan US 2004/0120008 as applied to claim 13 above, and further in view of Chumbley US 2002/0093568.

Regarding Claim 24, Morgan teaches machine according to claim 13, but does not explicitly teach whereby it features a franking unit.

Chumbley teaches whereby it features a franking unit (p0011, p0037, p0039).

At the time of the invention it would have been obvious to modify Morgan's photo kiosk to include Chumbley's postage meter since Haigh also teaches a photo kiosk (Fig. 2) integrated with postage meter allowing a printed item to be mailed.

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan US 2004/0120008 as applied to claim 13 above, and further in view of Thorne et al. US 2003/0167203 (hereinafter Thorne).

Regarding Claim 25, Morgan teaches machine according to claim 13, but does not explicitly teach whereby it features a motion sensor suitable for the detection of approaching people.

Thorne teaches whereby it features a motion sensor suitable for the detection of approaching people (p0019).

At the time of the invention it would have been obvious to modify Morgan's customer kiosk to include Thorne's motion detector since Thorne also teaches a customer kiosk (Fig. 1) that changes display upon detecting approaching users thus drawing the attention of the users.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kent Yip whose telephone number is (571) 270-5244. The examiner can normally be reached on Mon - Fri 10:00 AM - 6:00 PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler L. Haskins can be reached on (571) 272-7406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. Y./
Examiner, Art Unit 2625

/Twyler L. Haskins/
Supervisory Patent Examiner, Art Unit 2625